

114.6 CMR: DIVISION OF HEALTH CARE FINANCE AND POLICY

114.6 CMR 3.00: STUDENT HEALTH INSURANCE PROGRAM

Section

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3.01: General Provisions

(a) Scope, Purpose and Effective Date. 114.6 CMR 3.00 establishes the requirements effective August 1, 2006 for a Qualifying Student Health Plan. It also establishes the procedures for Massachusetts institutions of higher education to comply with the requirement that all full-time and part-time students participate in a Qualifying Student Health Plan or in a plan of comparable coverage.

(b) Authority. 114.6 CMR 3.00 is promulgated in accordance with the provisions of M.G.L. c. 15A, § 18.

3.02: Definitions

The following terms as used in 114.6 CMR 3.00 have the following meanings, except where the context clearly indicates otherwise:

Carrier. An insurer licensed or otherwise authorized to transact accident and health insurance under M.G.L. c. 175; a nonprofit hospital service corporation organized under M.G.L. c. 176A; a nonprofit medical service corporation organized under M.G.L. c. 176B; or a health maintenance organization organized under M.G.L. c. 176G. A student health plan operated by an entity exempt from licensure under 211 CMR 43.02 (b) shall not be considered a carrier or subject to a carrier's enabling statute or the provisions of M.G.L. c. 176N or c. 176O for the purposes of complying with the requirements for a qualifying student health insurance program.

Division. The Division of Health Care Finance and Policy established under M.G.L. c. 118G.

Emergency Services. Services consistent with the Division of Insurance statutory references including those specified in M.G.L. c. 175, § 47U; M.G.L. c. 176A, § 8U; M.G.L. c. 176B, § 4U; and M.G.L. c. 176G, § 5.

Full-time student. A student who meets the minimum academic requirements for full-time students as defined by the institution of higher education in which the student is enrolled.

Health benefit plan. Any health insurance program or other program through which an individual may obtain health benefits and services.

Independent institution of higher education. Any institution, other than institutions within the public system of higher education as set forth in M.G.L. c. 15A, § 5, that offers courses leading to an academic degree and is accredited by the Massachusetts Board of Higher Education under the provisions of M.G.L. c. 69, §§ 30, 30A and 31A and 610 CMR 2.00.

Institution of higher education. A public or independent institution of higher education located in Massachusetts.

Low Income Patient. An individual whose status has been determined pursuant to the criteria in 114.6 CMR 12.00 and that may receive hospital or community health center services eligible for payment from the Uncompensated Care Trust Fund.

MassHealth. A Medicaid program administered by the Division of Medical Assistance pursuant to M.G.L. c. 118E and in accordance with Title XIX of the Federal Social Security Act, and Section 1115 Demonstration Waiver.

Mental Illness. A condition consistent with Massachusetts statutory references, including those specified in M.G.L. c. 175, § 47B; M.G.L. c. 176A, § 8A; M.G.L. c. 176B, § 4A; and M.G.L. c. 176G, § 4M.

Office of Patient Protection. The office within the Department of Public Health established by M.G.L. c. 111, § 217 responsible for the administration and enforcement of M.G.L. c. 176O, §§ 13 through 16.

Part-time student. A student who participates in at least 75 % of the academic requirements for full-time students.

Public institution of higher education. An institution of higher education as defined in M.G.L. c. 15A, § 5, and Quincy College.

Resident. A person living in Massachusetts with the intention to remain permanently or for an indefinite period of time.

School Year. The 365-day period commencing on the first day of the fall semester at each institution of higher education.

Student. A full-time or part-time student enrolled in a degree-granting program at an institution of higher education.

3.03: Mandatory Health Insurance Coverage

(1) Students. Every full-time and part-time student enrolled in a certificate, diploma or degree-granting program of higher education must participate in a qualifying student health insurance program or in a health benefit plan with comparable coverage as defined in 114.6 CMR 3.05(2).

(2) Institutions of Higher Education. Every institution of higher education shall require all full-time and part-time students enrolled in a certificate, diploma or degree-granting program to participate in a qualifying student health insurance program or in a health benefit plan with comparable coverage as defined in 114.6 CMR 3.05(2).

3.04: Qualifying Student Health Insurance Program Requirements

(1) Required Benefits. A qualifying student health insurance program must provide reasonably comprehensive coverage of health services, including preventive and primary care, emergency services, surgical services, hospitalization benefits, ambulatory patient services, and mental health services. Carriers must provide all benefits and services required by Division of Insurance statutes and regulations.

(2) Other Requirements.

(a) A qualifying student health insurance program may not exclude or limit coverage, except as otherwise permitted by 114.6 CMR 3.04(3), of any full-time or part-time student who is away from campus for any reason.

(b) A qualifying student health insurance program shall include services delivered in accordance with the healing practices of Christian Science.

(c) If a qualifying student health insurance program limits benefits per illness or accident, the maximum aggregate indemnity to be paid for all benefits for each physical or mental illness or accident may not be less than \$25,000 for the 2006-2007 academic year, and \$50,000 for subsequent academic years.

(d) A qualifying student health insurance program may define benefit levels either as benefit levels per school year or as benefit levels per 52-week period from the onset of illness or accident.

(e) Each student health plan shall specify in writing its policy regarding premium refunds and partial year student enrollment.

(f) Each student health plan shall specify in writing its policy regarding denial of payments for rendered services and for denials of referrals for requested services, including an internal grievance procedure. Carriers must provide students with notification of the right of appeal to the Office of Patient Protection.

(3) Permissible Exclusions and Limitations. A qualifying student health insurance program may

(a) impose reasonable exclusions and limitations including different benefit levels for in-network and out-of-network providers;

(b) impose reasonable co-payments and deductibles. The plan must specify the co-pay amount for in-network and out-of-network office, clinic, and hospital visits. The total annual deductible may not exceed \$250 per year.

(c) exclude charges reimbursable by any other valid and collectible medical insurance plan, provided that any charges in excess of the limits of such other medical insurance plan must be reimbursed as otherwise provided in the qualifying student health insurance program.

(d) exclude hospital or medical care resulting from participation in intercollegiate athletics provided that such care is covered under another health insurance program with equal or greater coverage.

(4) Student Health Service. An institution of higher education may elect to provide some or all of its student health benefits through an on-campus student health service. If a qualifying student health insurance program uses an on-campus student health service that is not equipped to provide all of the benefits required by law, the program must arrange for students to obtain access to outside providers of the required services. Such access arrangements may include procedural rules for students to follow to obtain access to outside providers. Students must follow the procedural rules established by the program to obtain access to outside services. The student health service shall specify, in writing, the consequences of a student's failure to follow such procedural rules, and shall further specify that a student has a right of review from any denial of services or payment for services as a result of a student's failure to follow such procedural rules. The student health service shall also provide a grievance procedure and notification of the right to file a grievance if the student's request for access to an outside provider is denied. An on-campus student health service shall maintain records of referrals made to outside providers of mandated benefits and denied requests for referrals to outside providers.

(5) Additional Benefits. Institutions of higher education may offer a health benefit plan that offers benefit levels that exceed the minimum requirements. In designing student health insurance programs, institutions of higher education may take into consideration the following factors: the type and nature of the student body, the size of the campus, the location of the campus, the extent of on-campus health services, the ability of individual students to purchase health benefit plans, the ability of the institution to join with other institutions of higher education for the purpose of securing savings through collective bidding for qualifying student health insurance programs.

3.05: Waiver of Participation due to Comparable coverage

(1) Election of Waiver of Participation. An institution of higher education may elect to allow full-time and part-time students to waive participation in a qualifying student health insurance program. The institution must require students waiving participation to (1) certify, in writing, at least annually, as part of the institution's usual registration process that they are participating in a health benefit plan with comparable coverage and (2) to provide documentation of such coverage.

(2) Comparable Coverage.

(a) Coverage under a health benefit plan is comparable if

1. the health benefit plan provides to the student throughout the school year reasonably comprehensive coverage of health services, including preventive and primary care, emergency services, surgical services, hospitalization benefits, ambulatory patient services, and mental health services; and
2. the services covered under the health benefit plan are reasonably accessible to the student in the area where the student attends school.

(b) An institution of higher education may waive participation for students enrolled in MassHealth.

(c) An institution of higher education may not waive participation for

1. students determined to be Low Income Patients for Services Eligible for Payment from the Uncompensated Care Pool; or
2. students with coverage from insurance carriers outside the U.S. and coverage by foreign National Health Service programs, unless the student is studying in a foreign country and the student's insurance provides coverage in that location; and
3. students with a health insurance plan that provides coverage through a closed network of providers, not reasonably accessible in the area where the student attends school, for all but emergency services.

(d) It is the responsibility of the student seeking to waive participation in a qualifying student health insurance program – not the institution of higher education in which the student is enrolled – to determine whether the student's health benefit plan has coverage comparable to the coverage offered under a qualifying student health insurance program.

(3) Written Waiver Request. An institution of higher education electing to allow students to waive participation in a qualifying student health insurance program must obtain from each student a written waiver request. The waiver request must be on a form supplied by the institution, and may be submitted electronically. The waiver request must contain, at a minimum, the following information:

- (a) the name of the entity offering the health benefit plan;
- (b) the policy or other number used to identify the student's participation in the health benefit plan;
- (c) the subscriber or primary enrollee in the health benefit plan and the

relationship of that person to the student;

(d) a statement certifying that the coverage under the health benefit plan is comparable to coverage under a qualifying student health insurance program and that the student understands that once a waiver request is submitted, the student will be responsible for his/her medical expenses, and neither the institution of higher education nor the qualifying student health insurance program will be responsible for those expenses.

(d) A signature of the student and the student's parent or guardian if the student is a minor. An institution of higher education may accept electronic waiver forms and electronic signatures.

(4) Documentation of Insurance.

(a) Effective for the 2007-2008 and subsequent academic years, in addition to a written waiver request, an institution of higher education must either obtain documentation of the student's other insurance coverage or otherwise verify the student's health insurance coverage. The Division will develop procedures to assist schools to comply with this requirement, and will notify schools no later than July 1, 2007 of such alternative procedures.

(b) The institution of higher education has no affirmative obligation to compare coverage of the two plans. If an institution of higher education relies in good faith on the statements by a student that the coverage is comparable, the institution is not be liable for any penalty or for any failure to comply with a provision of 114.6 CMR 3.00 caused by any misstatement by the student. An institution of higher education must not accept a student's waiver request, however, if it knows that the student's statement is inaccurate or if the student's coverage cannot be verified. If an institution of higher education does not accept a student's waiver request, the student must participate in a qualifying student health insurance program.

3.06 Recordkeeping

All institutions of higher education must maintain records sufficient to demonstrate compliance with 114.6 CMR 3.00. These records must include, at a minimum, a copy of the health benefit plan offered to students as the qualifying student health insurance program; all informational materials developed by or for the institution to describe the qualifying student health insurance program; the student's obligations to participate in such program; all written waiver requests submitted pursuant to 114.6 CMR 3.05 (3); and documentation of other insurance submitted pursuant to 114.6 CMR 3.05(4). Such records must be maintained for at least three years.

3.07: Reporting

(1) By July 1 of each year, each institution of higher education must report to the Division, in a form specified by the Division, the following information for that school year:

- (a) the name of the carrier underwriting its qualifying student health insurance program;
- (b) the premium cost per student per year for the qualifying student health insurance program;
- (c) any other health-related charges or fees assessed to students; and
- (d) a description of the benefits, benefit levels, exclusions, limitations, and other important terms and conditions of the institution's qualifying student health insurance program;

(2) By November 1 of each year, each institution of higher education must report to the Division, in a form specified by the Division, the following information for the school year:

- (a) the total number of full-time and part-time students enrolled in the institution who are required to participate in the qualifying student health insurance program or in a health benefit plan with comparable coverage;
- (b) of the total number reported in 114.6 CMR 3.07(2)(a) above, the number who have waived participation in the qualifying student health insurance program pursuant to 114.6 CMR 3.05.

(3) By March 1 of each year, each institution of higher education must update the information reported pursuant to 114.6 CMR 3.07 (1) to reflect any changes that may have occurred.

(4) Each institution of higher education shall provide to the Division such additional information, data and materials as the Division may request from time to time in connection with implementation of 114.6 CMR 3.00.

3.08: Oversight and Enforcement

(1) Investigation, Review and Audit Procedures. The Division may periodically investigate, review or audit the efforts of an institution of higher education in compliance with 114.6 CMR 3.00. An institution of higher education must make available to the Division, for inspection and copying, at reasonable times during the normal business day, all records required to be maintained by the institution under 114.6 CMR 3.05 and 114.6 CMR 3.06 and such other records, information and data that the Division deems pertinent. Upon or soon after the completion of its investigation, review or audit, the Division will confer with the institution of higher education to describe the investigation, review or audit process itself, to discuss any conclusions and recommendations under consideration by the Division and to offer or obtain additional pertinent information. Upon completion of its written report, the Division will forward a copy to the institution of higher education.

(2) Enforcement Process. If the Division determines, after investigation, review or audit, that an institution of higher education has failed to comply with 114.6 CMR 3.00 and that a sanction authorized under 114.6 CMR 3.11 should be imposed, the Division must issue a Notice of Action. The Notice of Action must specify the facts relied upon in making this determination, cite any statute or regulation which authorizes the Division to take the action, and inform the institution of its right to an adjudicatory hearing. An adjudicatory hearing under 114.6 CMR 3.00 is governed by the rules of practice and procedure set forth in 801 CMR 1.01 and 1.03.

3.11: Sanctions

Each institution of higher education which fails to meet its obligations under 114.6 CMR 3.00, including maintenance of required documentation and reporting requirements, must pay a penalty of at least \$35 or \$5 for each student, whichever is greater, for every day the failure continues.

3.12: Administrative Bulletins

The Division may periodically issue administrative bulletins containing interpretations of 114.6 CMR 3.00 and other information to assist institutions of higher education to meet their obligations under 114.6 CMR 3.00.

3.13 Severability

If any section or portion of sections of 114.6 CMR 3.00, or the applicability thereof to any person or circumstances is held invalid by any court of competent jurisdiction, the

remainder of 114.6 CMR 3.00, or the applicability thereof to other persons or circumstances, will not be affected thereby.

REGULATORY AUTHORITY

114.6 CMR 3.00: M.G.L. c. 15A, s. 18